

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ZURICH AMERICAN INSURANCE)
COMPANY OF ILLINOIS,)
)
Plaintiff,)
)
v.) Civil Action File
) No. 2:19-CV-02173-JTF-cgc
SUNSHINE INTERNATIONAL)
CORPORATION d/b/a STEPUP)
SCAFFOLDING, LLC, and LIPSCOMB &)
PITTS INSURANCE, LLC,)
)
Defendants.)

**PLAINTIFF'S ANSWER TO DEFENDANT LIPSCOMB & PITTS
INSURANCE, LLC'S COUNTERCLAIM**

Plaintiff, Zurich American Insurance Company of Illinois ("Zurich") submits the following Answer to the Counterclaim submitted by Defendant Lipscomb & Pitts Insurance, LLC ("L&P") as follows.

1. Admitted.
2. Admitted.
3. Admitted.
4. The Agreement speaks for itself.
5. The factual statements are so incorporated.
6. (a) Denied.
 (b) Denied.
 (c) Denied.
7. Denied.

COUNT I

Declaratory Judgment

8. Zurich's answers are reincorporated as set forth in Paragraphs 1-7 of this Answer.

9. Zurich denies the allegations set forth therein and incorporates its response to Paragraph 7 above.

10. Denied. See response above.

AFFIRMATIVE DEFENSES

1. L&P fails to state a claim upon which relief may be granted.

2. L&P had a duty to review all policies that it procured for its clients and at no time did L&P tell Zurich that there were errors and/or omissions regarding the workers' compensation policies at bar.

3. L&P waived any right to assert indemnification through its failure to report any errors and/or omissions that it alleges exist in this matter. Zurich further asserts the claim of laches.

4. Zurich committed no errors and/or omissions in its issuance of the insurance policies at bar.

5. The contractual indemnification provision at bar does not apply to tort claims.

6. The Counterclaim has no legal merit in that any judgment entered against L&P would render the indemnification provision at bar void, as L&P would have necessarily been found to have committed errors and/or omissions.

WHEREFORE, Zurich seeks:

1. Judgment in its favor in connection with the Counterclaim asserted by L&P;
2. That the costs of this proceeding, including discretionary costs, be taxed to L&P; and
3. Such further and other relief as this Court deems proper.

This 14th day May, 2019.

/s/ Frederick Owen Ferrand

Frederick Owen Ferrand
Georgia Bar No. 259169

/s/ Kori E. Eskridge

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY I have this date electronically filed PLAINTIFF'S ANSWER TO DEFENDANT LIPSCOMB & PITTS INSURANCE, LLC'S COUNTERCLAIM with the Clerk of Court via the CM/ECF system, through which the following counsel will receive service:

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This 14th day of May, 2019.

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